

REMARKS

In response to the Office Action dated August 24, 2005, kindly amend the above-identified application for patent as follows. Please cancel Claims 37-57, 59-61, 65-67, 71-73 and 91-102. Claims 1-3, 5-8, 10-11, 13, 17, 18, 25, 29, 30, 58, 64, 69, 70, 74, 75, 85 and 88 have been amended and new Claims 103-111 have been added. Thus, Claims 1-36, 58, 62-64, 68-70, 74-90 and 103-112 remain pending in the application. Reconsideration of the Claims, as amended, is respectfully requested.

Claims 69 and 74-75 were objected to for various informalities. Applicant has corrected these informalities and withdrawal of the objection is respectfully requested.

Claims 5, 6, 17, 18, 77-79, 81, 85, 92, 94, 96, 98, 100 and 102 were rejected under 35 U.S.C. §112 second paragraph. Applicant has amended these claims, where necessary, to more particularly point out and distinctly claim the subject matter of the invention. Withdrawal of the rejection is respectfully requested.

Claims 1-60, 62, 64-66, 68, 70-72 and 74 were rejected under 35 U.S.C. §102 as being anticipated by *Gleichauf I* and *Gleichauf II*. Claim 1 has been amended to more particularly recite that the first tester is adapted to sequentially perform a plurality of tests on a system under test. Each of the plurality of tests are more specific to the system under test based on information gained from a previous test. This type of network security testing apparatus is not disclosed by either of the *Gleichauf* references. The *Gleichauf II* reference describes performing a preliminary analysis wherein this preliminary analysis is used to determine whether to perform a host nudge or active exploits. This process describes at most a single second group of tasks which are dependent upon the preliminary analysis performed. Applicants' amended Claim 1 clearly describes that each of a plurality of tests are more specific to the system under test based upon information gained from a previous test. Thus, a second test is more specific based upon a first test, a third test is more specific based upon the second test, a fourth test is more specific based upon the third test and so forth. This process is significantly different from merely running an analysis and then determining which of two groups of tests to perform.

AMENDMENT AND RESPONSE
S/N 10/043,654
Atty. Dkt. No. CRIT-27,301

upon a network being tested. The system as described in Applicants' Claim 1 enables more specific information to be obtained with each test, thus enabling the system to provide significant advantages over the system described with respect to the *Gleichauf* references. Therefore, the Applicant respectfully submits that Claim 1, and all claims dependent therefrom, are distinguishable from the art of record and a *Notice of Allowance* is respectfully requested.

Claims 13 and 25 include limitations similar to those of Claim 1. Therefore, the Applicant respectfully submits that Claims 13 and 25 are distinguishable from the *Gleichauf* references for reasons similar to those discussed with respect to Claim 1. A *Notice of Allowance* for Claims 13 and 25, and all claims dependent therefrom, is respectfully requested.

The rejection of Claims 37-57 is now moot in view of the cancellation of these claims.

Claim 58 has been amended to include the limitations of previous Claim 61. In view of the indication of allowable subject matter for Claim 61, a *Notice of Allowance* for Claim 58, and all claims dependent therefrom, is respectfully requested.

Claim 64 has been amended to include the limitations of previous Claim 67. In view of the indication of allowable subject matter for Claim 67, a *Notice of Allowance* for Claim 64, and all claims dependent therefrom, is respectfully requested.

Claim 70 has been amended to include the limitations of previous Claim 73. In view of the indication of allowable subject matter for Claim 73, a *Notice of Allowance* for Claim 70, and all claims dependent therefrom, is respectfully requested.

Claim 76-87 and 91-101 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Gleichauf I* and *II* with respect to Claims 76, 80 and 84, and all claims dependent therefrom, the action took official notice that one of ordinary skill in the art would recognize that the detection of a test by the system under test as a plausible interpretation of the pattern of results where a second attempt of a

AMENDMENT AND RESPONSE

S/N 10/043,654

Atty. Dkt. No. CRIT-27,301

tester to couple to a network fails after a first attempt has been successful. Applicant respectfully submits that if one of ordinary skill in the art would recognize such a test and provide the interpretation of the results as recited in Applicants' claim that a reference teaching such an analysis should be readily available. Thus, Applicants respectfully request the recitation of prior art teaching the matters to which the Examiner has taken official notice. Absent such specific teachings in the art, Applicant respectfully submits that Claims 76-87, and all claims dependent therefrom, are allowable over the art of record and a *Notice of Allowance* is respectfully requested.

Regarding Claims 91-101, as these claims have been canceled, this rejection is now moot.

Claims 88-90 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Gleichauf I* and *II* in view of *Srinivasan*. Claims 88-90 have been amended to more particularly recite that the application program interface further includes an API stub enabling said test tool to be executed by said tester even if the outputs of said tester do not directly correspond to the inputs of said test tool and such that said test tool may be executed by said tester even if the inputs of said tester do not directly correspond to the outputs of said test tool, said API further including a common API for interfacing between the test tools and instructions provided to the test tools. Applicant respectfully submits that an API having this configuration is not described by the recited combination of *Gleichauf* and *Srinivasan*. A *Notice of Allowance* for Claims 88-90 is respectfully requested.

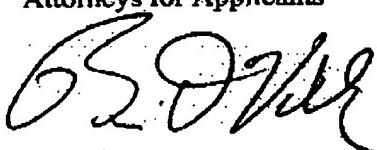
Applicant has added new Claims 103-111. Claims 103-105 include the subject matter of Claims 63, 69 and 75 which were previously indicated as containing allowable subject matter. Therefore, a *Notice of Allowance* for these claims, is respectfully requested. Claim 106, recites a first tester making a pre-verification test on a system under test to confirm the first tester can reach the system under test and a first tester making a post verification test to determine if the first tester has tripped a defensive mechanism in the system under test. Applicant respectfully submits that a network security testing apparatus with these limitations is not disclosed by the art of record. Claims 108 and 110 include limitations similar to those of Claim 106. A *Notice of Allowance* for Claims 106-111 is respectfully requested.

AMENDMENT AND RESPONSE
S/N 10/043,654
Atty. Dkt. No. CRIT-27,301

29

In view of the foregoing amendments and comments, the Applicant respectfully submits that all pending claims are allowable over the art of record. A *Notice of Allowance* is respectfully requested. Please charge any additional fees or deficiencies in fees or credit any overpayment to Deposit Account No. 20-0780/CRIT-27,301 of HOWISON & ARNOTT, L.L.P.

Respectfully submitted,
HOWISON & ARNOTT, L.L.P.
Attorneys for Applicants



Brian D. Walker
Registration No. 37,751

BDW/yoc/cr

P.O. Box 741715
Dallas, Texas 75374-1715
Tel: 972-479-0462
Fax: 972-479-0464
October 13, 2005

AMENDMENT AND RESPONSE
S/N 10/043,654
Atty. Dkt. No. CRIT-27,301